

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000-14th STREET, N.W., SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

| | | |
|-----------------------------|---|------------------------|
| IN THE MATTER OF |) | DATE: October 31, 2003 |
| |) | |
| Joseph F. Horning |) | DOCKET NO.: 03F-200 |
| Vice Chair |) | |
| Public Charter School Board |) | |
| 2323 Wyoming Avenue, NW |) | |
| Washington, DC 20008 |) | |

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of General Counsel following a determination by its Public Information Records Management Division, that pursuant to the D.C. Code §1-1106.02 (2001 Edition), Joseph F. Horning, Vice Chair, Charter Public School Board, failed to timely file, a Financial Disclosure Statement for calendar year 2002, on or before May 15, 2003 as required by D.C. Official Code §1-1106.02 and also failed to file on or before the OCF sanctioned extended filing deadline of June 19, 2003.

By Notice of Hearing, Statement of Violations and Order of Appearance dated August 11, 2003, OCF ordered Joseph F. Horning (hereinafter respondent), to appear at a scheduled hearing on August 26, 2003 and show cause why he should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, as amended by D.C. Official Code §§1-1101.01 et seq., and fined accordingly.

Summary of Evidence

OCF alleges that the respondent failed to timely file the statutorily required Financial Disclosure Statement for calendar year 2002, on or before June 19, 2003.

On August 20, 2003, respondent filed an affidavit with OCF stating that his failure to timely file the required Financial Disclosure Statement was due to his staff's delay in notifying him of the need to file. Respondent asserted that as soon as he became aware of the omission, he filed online on July 10, 2003. Respondent further stated that he would be out of town on the date of the scheduled hearing, and requested his appearance be waived. Respondent enclosed a fully executed copy of the required Financial Disclosure Statement filed online on July 10, 2003.

Findings of Fact

Having reviewed the allegations and the record herein, I find:

1. Respondent was required to file a Financial Disclosure Statement with OCF for calendar year 2002, on or before June 19, 2003.
2. Respondent filed the required Financial Disclosure Statement on July 10, 2003.
3. OCF provided notice of the requirement to file annually, not later than May 15th of each year for the prior calendar year, on its Financial Disclosure Statement form.
4. Respondent is a first-time FDS filer.
5. Respondent provided a credible explanation for the filing delinquency in that he is a first-time filer and a novice to the FDS filing requirements.
6. Respondent is currently in compliance with the statute.

Conclusions of Law

Based upon the record provided by OCF, I therefore conclude:

1. Respondent violated D.C. Official Code §1-1106.02.
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), and 3DCMR §§3711.2(aa), 3711.2 and 3711.4 for failure to timely file a Financial Disclosure Statement required by D.C. Official Code §1-1106.02 is a fine of \$50.00 per day for each business day subsequent to the due date.
3. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent may be fined a maximum of \$650.00 for failing to timely file a Financial Disclosure Statement.
4. For good cause shown pursuant to 3DCMR §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.

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5. Respondent's status a first-time filer and novice to the FDS filing requirements constitute good cause for suspension of the fine.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the imposition of the fine in this matter, and admonish respondent for his personal failure to timely file the required report.

Date

Jean Scott Diggs
Hearing Officer

Concurrence

In view of the foregoing, I hereby concur with the Recommendation.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that the fine in this matter be hereby suspended, and that respondent is hereby admonished for his personal failure to timely file the required report.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order.

Rose Rice
Legal Assistant

NOTICE

Pursuant to 3 DCMR §3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000-14th Street, N.W., Washington, D.C. 20009.